

**Senate File 444 - Introduced**

SENATE FILE 444  
BY COMMITTEE ON EDUCATION

(SUCCESSOR TO SSB 1106)

**A BILL FOR**

1 An Act relating to oversight functions performed by the college  
2 student aid commission regarding certain restrictions and  
3 requirements for schools offering postsecondary educational  
4 programs, providing for fees, and making penalties  
5 applicable.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 714.17, Code 2011, is amended to read as  
2 follows:

3 714.17 Unlawful advertising and selling of educational  
4 courses of instruction.

5 It shall be unlawful for any person, firm, association,  
6 or corporation maintaining, advertising, or conducting in  
7 Iowa any educational course ~~of instruction~~ for profit, or  
8 for tuition charge, whether by classroom instructions, ~~or~~ by  
9 correspondence, or by other delivery method to:

10 1. Falsely advertise or represent to any person any matter  
11 material to ~~such~~ an educational course ~~of instruction~~. All  
12 advertising of such courses ~~of instruction~~ shall adhere to and  
13 comply with the rules and regulations of the federal trade  
14 commission as of ~~July 4, 1965~~ July 1, 2010.

15 2. Collect tuition or other charges in excess of one hundred  
16 fifty dollars in the case of educational courses offered by  
17 ~~correspondence courses of study~~, in advance of the receipt and  
18 approval by the pupil of the first assignment or lesson of such  
19 course. Any contract providing for advance payment of more  
20 than one hundred fifty dollars shall be voidable on the part of  
21 the pupil or any person liable for the tuition provided for in  
22 the contract.

23 3. Promise or guarantee employment utilizing information,  
24 training, or skill purported to be provided or otherwise  
25 enhanced by a an educational course, unless the promisor or  
26 guarantor offers the student or prospective student a bona  
27 fide contract of employment agreeing to employ said student  
28 or prospective student for a period of not less than one  
29 hundred twenty days in a business or other enterprise regularly  
30 conducted by the promisor or guarantor and in which such  
31 information, training, or skill is a normal condition of  
32 employment.

33 Sec. 2. Section 714.18, subsection 1, Code 2011, is amended  
34 to read as follows:

35 1. Except as otherwise provided in subsection 2, every

1 person, firm, association, or corporation maintaining or  
2 conducting in Iowa any ~~such~~ educational course ~~of instruction~~  
3 by classroom instruction or by correspondence or by other  
4 ~~distance~~ delivery method, or soliciting in Iowa the sale of  
5 such course, shall file with the college student aid commission  
6 all of the following:

7     *a.* A continuous corporate surety bond to the state of  
8 Iowa in the sum of fifty thousand dollars conditioned ~~for~~  
9 on the faithful performance of all contracts and agreements  
10 with students made by such person, firm, association, or  
11 corporation, or their salespersons; but the aggregate liability  
12 of the surety for all breaches of the conditions of the bond  
13 shall not exceed the sum of the bond. The surety on the bond  
14 may cancel the bond upon giving thirty days' written notice  
15 to the college student aid commission and thereafter shall be  
16 relieved of liability for any breach of condition occurring  
17 after the effective date of the cancellation.

18     *b.* A statement designating a resident agent for the purpose  
19 of receiving service in civil actions. In the absence of such  
20 designation, service may be had upon the secretary of state if  
21 service cannot otherwise be made in this state.

22     *c.* A copy of any catalog, prospectus, brochure, or other  
23 advertising material intended for distribution in Iowa.  
24 Such material shall state the cost of the educational course  
25 offered, the schedule of tuition refunds for portions of the  
26 educational course not completed, and if no refunds are to  
27 be paid, the material shall so state. Any contract induced  
28 by advertising materials not previously filed as provided in  
29 this chapter shall be voidable on the part of the pupil or any  
30 person liable for the tuition provided for in the contract.

31     Sec. 3. Section 714.18, subsection 2, paragraph a,  
32 subparagraphs (1) and (4), Code 2011, are amended to read as  
33 follows:

34     (1) A continuous corporate surety bond to the state of  
35 Iowa in the sum of fifty thousand dollars or ten percent

1 of the total annual tuition collected, whichever is less,  
2 conditioned ~~for~~ on the faithful performance of all contracts  
3 and agreements with students made by such school. A school  
4 desiring to file a surety bond based on a percentage of annual  
5 tuition shall provide to the college student aid commission, in  
6 the form prescribed by the commission, a notarized statement  
7 attesting to the total amount of tuition collected in the  
8 preceding twelve-month period. The commission shall determine  
9 the sufficiency of the statement and the amount of the bond.  
10 Tuition information submitted pursuant to this subparagraph  
11 shall be kept confidential.

12 (4) The college student aid commission may accept a letter  
13 of credit ~~from~~ issued by a bank in lieu of and for the amount  
14 of the corporate surety bond required by this paragraph ~~"a"~~  
15 subparagraphs (1) through (3), as applicable.

16 Sec. 4. Section 714.19, subsections 6 through 8, Code 2011,  
17 are amended to read as follows:

18 6. Schools and educational programs conducted by firms,  
19 corporations, or persons ~~for the training of their own~~  
20 ~~employees,~~ for which no fee is charged.

21 7. Seminars, refresher courses, and schools of instruction  
22 ~~sponsored~~ conducted by professional, business, or farming  
23 organizations or associations for the members and employees of  
24 members of such organizations or associations. A person who  
25 provides instruction under this subsection who is not a member  
26 or an employee of a member of the organization or association  
27 shall not be eligible for this exemption.

28 8. Private business schools accredited by ~~the accrediting~~  
29 ~~commission for business schools or an acknowledged~~ accrediting  
30 agency recognized by the United States department of education  
31 or the council for higher education accreditation.

32 Sec. 5. Section 714.19, Code 2011, is amended by adding the  
33 following new subsection:

34 NEW SUBSECTION. 10. Private, nonprofit schools that are  
35 eligible for state student financial aid programs authorized

1 under chapter 261.

2 Sec. 6. Section 714.22, Code 2011, is amended to read as  
3 follows:

4 **714.22 Trade and vocational schools — exemption —**  
5 **conditions.**

6 1. For the purposes of this section, a "trade or vocational  
7 school" means one which provides a postsecondary educational  
8 course that prepares a student for employment in a recognized  
9 occupation.

10 2. a. The provisions of sections ~~714.17~~ 714.18 through  
11 714.21 shall not apply to trade or vocational schools if they  
12 meet either of the following conditions:

13 ~~1. (1)~~ (1) File a bond or a bond is filed on their behalf by  
14 a parent corporation with the college student aid commission  
15 as required by section 714.18.

16 ~~2. (2) File an annual sworn statement, or such statement is~~  
17 ~~filed on their behalf by a parent corporation, certified by a~~  
18 ~~certified public accountant, showing all assets and liabilities~~  
19 ~~of the trade or vocational school and the assets of any parent~~  
20 ~~corporation. The statement shall show the trade or vocational~~  
21 ~~school's net worth, or the net worth of the school's parent~~  
22 ~~corporation, to be is not less than five times the amount of~~  
23 ~~the bond required by section 714.18. The trade or vocational~~  
24 ~~school shall file with the college student aid commission an~~  
25 ~~annual sworn statement, or such statement shall be filed on~~  
26 ~~the school's behalf by a parent corporation, certified by a~~  
27 ~~certified public accountant, showing all assets and liabilities~~  
28 ~~of the trade or vocational school and the assets of any parent~~  
29 ~~corporation. If a parent corporation files the statement or~~  
30 ~~its net worth is included in the statement to comply with this~~  
31 ~~subsection, the parent corporation shall appoint a registered~~  
32 ~~agent and otherwise is subject to section 714.18, subsection~~  
33 ~~1, paragraph "b", and is liable for the breach of any contract~~  
34 ~~or agreement with students as well as liable for any fraud in~~  
35 ~~connection with the contract or agreement or for any violation~~

1 of section 714.16 by the trade or vocational school or any of  
2 its agents or salespersons.

3 b. For the purposes of this subsection, the net worth of a  
4 trade or vocational school or the school's parent corporation,  
5 as applicable, shall be determined by the amount the school's  
6 or parent corporation's assets exceed its liabilities as shown  
7 in the sworn statement required to be filed pursuant to this  
8 subsection.

9 Sec. 7. Section 714.23, Code 2011, is amended by adding the  
10 following new subsection:

11 NEW SUBSECTION. 0A. a. For the purposes of this section  
12 and section 714.25, "*postsecondary educational program*" means  
13 a series of postsecondary educational courses that lead to  
14 a recognized educational credential such as an academic or  
15 professional degree, diploma, or license.

16 b. For the purposes of this section, "*school period*" means  
17 the course, term, payment period, postsecondary educational  
18 program, or other period for which the school assessed tuition  
19 charges to the student. A school that assesses tuition charges  
20 to the student at the beginning of each course, term, payment  
21 period, or other period that is shorter than the postsecondary  
22 educational program's length shall base its tuition refund on  
23 the amount of tuition costs the school charged for the course,  
24 term, or other period in which the student terminated. A  
25 school shall not base its tuition refund calculation on any  
26 portion of a postsecondary educational program that remains  
27 after a student terminates unless the student was charged for  
28 that remaining portion of the postsecondary educational program  
29 before the student's termination.

30 Sec. 8. Section 714.23, subsections 1 through 5, Code 2011,  
31 are amended to read as follows:

32 1. A person offering a ~~course of instruction at the~~  
33 ~~postsecondary level~~ postsecondary educational program, for  
34 profit, that is more than four months in length and leads  
35 to a ~~degree, diploma, or license~~ recognized educational

1 credential, shall make a pro rata refund of ~~no less than~~  
2 ~~ninety percent of the tuition for~~ charges to a terminating  
3 ~~student to the appropriate agency based upon~~ in an amount  
4 that is not less than ninety percent of the amount of tuition  
5 charged to the student multiplied by the ratio of ~~completed~~  
6 ~~number of scheduled school days to~~ the number of calendar days  
7 remaining in the school period until the date equivalent to the  
8 completion of sixty percent of the ~~scheduled school~~ calendar  
9 days of ~~in the school term or course~~ period.

10 2. Notwithstanding the provisions of subsection 1, the  
11 following tuition refund policy shall apply:

12 a. If a terminating student has completed sixty percent or  
13 more of a school ~~term or course that is more than four months in~~  
14 length period, the person offering the ~~course of instruction a~~  
15 postsecondary educational program that is more than four months  
16 in length is not required to refund tuition ~~for~~ charges to the  
17 student. However, if, at any time, a student terminates a  
18 ~~school term or course~~ postsecondary educational program that is  
19 more than four months in length due to the student's physical  
20 incapacity or due to the transfer of the student's spouse's  
21 employment to another city, the terminating student shall  
22 receive a refund of tuition charges in an amount ~~which that~~  
23 equals the amount of tuition charged to the student multiplied  
24 by the ratio of the remaining number of ~~school~~ calendar days in  
25 the school period to the total ~~school~~ number of calendar days  
26 of ~~in the school term or course~~ period.

27 b. ~~A refund of ninety percent of the tuition for a~~  
28 ~~terminating student shall be paid to the appropriate agency~~  
29 ~~based upon the ratio of completed number of school days to the~~  
30 ~~total school days of the school term or course.~~ A school shall  
31 provide to a terminating student a refund of tuition charges  
32 in an amount that is not less than ninety percent of the amount  
33 of tuition charged to the student multiplied by the ratio of  
34 the remaining number of calendar days in the school period  
35 to the total number of calendar days in the school period.

1 This paragraph "b" applies to those persons offering ~~courses~~  
 2 ~~of instruction at the postsecondary level~~ a postsecondary  
 3 educational program of more than four months in length, for  
 4 profit, whose cohort default rate for students under the  
 5 Stafford loan program as ~~defined~~ reported by the United States  
 6 department of education for the most recent federal fiscal year  
 7 is more than one hundred ten percent of the national average  
 8 cohort default rate for ~~that program for that period~~ the same  
 9 federal fiscal year or six percent, whichever is higher.

10 3. ~~If the financial obligations of a student are for three~~  
 11 ~~or fewer months duration, this section does not apply.~~ In the  
 12 case of a program in which student progress is measured only in  
 13 clock hours, all occurrences of calendar days in subsections 1  
 14 and 2 shall be replaced with scheduled clock hours.

15 4. ~~Refunds~~ A refund of tuition charges shall be ~~paid~~  
 16 provided to the ~~appropriate agency~~ student within thirty days  
 17 following the student's termination from a postsecondary  
 18 educational program.

19 5. A student who terminates a ~~course of instruction or~~  
 20 ~~term~~ postsecondary educational program shall not be charged  
 21 any fee or other monetary penalty for terminating a ~~course of~~  
 22 ~~instruction or term~~ the postsecondary educational program,  
 23 other than a reduction in tuition refund as specified in this  
 24 section.

25 Sec. 9. NEW SECTION. 714.24 Additional requirements.

26 1. A required filing of evidence of financial  
 27 responsibility pursuant to section 714.18 or 714.22 must be  
 28 completed at least once every two years.

29 2. A filing of a claim for an exemption pursuant to section  
 30 714.19 must be completed at least once every two years.

31 3. An entity that claims an exemption under section 714.19  
 32 must file evidence of financial responsibility pursuant to  
 33 section 714.18 or 714.22 within two business days following  
 34 the date upon which conditions that qualify the entity for an  
 35 exemption under section 714.19 no longer exist.

1 4. An entity that is required to file evidence of financial  
2 responsibility under section 714.18 or 714.22, or an entity  
3 that files a claim of exemption under section 714.19, shall  
4 utilize required forms approved and supplied by the commission.

5 5. *a.* The commission shall set by rule and collect  
6 a nonrefundable fee from each entity that files with the  
7 commission under section 714.18, 714.19, or 714.22.

8 *b.* Fees collected under paragraph "a" shall be deposited  
9 into the general fund and are appropriated to the commission  
10 for purposes of administering sections 714.18 through 714.25.

11 6. The commission and the attorney general may,  
12 individually or jointly, adopt rules pursuant to chapter 17A  
13 for the implementation of sections 714.18 through 714.25.

14 Sec. 10. Section 714.25, Code 2011, is amended to read as  
15 follows:

16 **714.25 Disclosure.**

17 1. For purposes of this ~~chapter section~~, ~~unless the~~  
18 ~~context otherwise requires~~, "*proprietary school*" means a person  
19 offering a ~~course of instruction at the postsecondary level~~  
20 postsecondary educational program, for profit, that is more  
21 than four months in length and leads to a ~~degree, diploma, or~~  
22 license recognized educational credential, such as an academic  
23 or professional degree, diploma, or license.

24 2. A proprietary school shall, prior to the time a student  
25 is obligated for payment of any moneys, inform the student, the  
26 college student aid commission, and in the case of a school  
27 licensed under section 157.8, the board of cosmetology arts  
28 and sciences or in the case of a school licensed under section  
29 158.7, the board of barbering, of all of the following:

30 *a.* The total cost of the ~~course of instruction~~ postsecondary  
31 educational program as charged by the proprietary school.

32 *b.* An estimate of any fees which may be charged the  
33 student by others which would be required if the student is  
34 to successfully complete the course postsecondary educational  
35 program and, ~~if applicable~~, obtain a ~~degree, diploma, or~~

1 license recognized educational credential.

2 c. The percentage of students who successfully complete  
3 the course postsecondary educational program, the percentage  
4 who terminate prior to completing the course postsecondary  
5 educational program, and the period of time upon which the  
6 proprietary school has based these percentages. The reporting  
7 period shall not be less than one year in length and shall not  
8 extend more than five years into the past.

9 d. If claims are made by the proprietary school as to  
10 successful placement of students in jobs upon completion of the  
11 course of study proprietary school's postsecondary educational  
12 programs, the proprietary school shall provide the student with  
13 all of the following:

14 (1) The percentage of graduating students who were placed  
15 in jobs in fields related to the course of instruction  
16 postsecondary educational programs.

17 (2) The percentage of graduating students who went on to  
18 further education immediately upon graduation.

19 (3) The percentage of students who, ninety days after  
20 graduation, were without a job and had not gone on to further  
21 education.

22 (4) The period of time upon which the reports required by  
23 paragraphs "a" through "c" were based. The reporting period  
24 shall not be less than one year in length and shall not extend  
25 more than five years into the past.

26 e. If claims are made by the proprietary school as to income  
27 levels of students who have graduated and are working in fields  
28 related to the proprietary school's course of instruction  
29 postsecondary educational programs, the proprietary school  
30 shall inform the student of the method used to derive such  
31 information.

32 Sec. 11. Section 714.25, Code 2011, is amended by adding the  
33 following new subsection:

34 NEW SUBSECTION. 3. The requirements of subsection 2 shall  
35 not apply to a proprietary school that is eligible for federal

1 student financial aid under Tit. IV of the federal Higher  
2 Education Act of 1965, as amended.

3 EXPLANATION

4 This bill makes various changes relating to the college  
5 student aid commission's oversight functions over the  
6 advertising, financial responsibility, tuition refund, and  
7 disclosure requirements and restrictions governing certain  
8 educational programs and courses, and provides for fees.

9 The bill amends Code section 714.19, relating to the  
10 nonapplicability of Code sections 714.17 to 714.22, governing  
11 business and financial practices of sellers of educational  
12 courses, to provide that instructors for courses conducted  
13 by professional, business, or farming organizations or  
14 associations for the members and employees of members of such  
15 entities who are not members or employees of members themselves  
16 are ineligible for exemption from Code sections 714.17 to  
17 714.22. The bill specifies accreditation standards for private  
18 business schools exempt from Code sections 714.17 to 714.22.  
19 The bill creates a new exemption from Code sections 714.17  
20 to 714.22 for private, nonprofit schools eligible for state  
21 student financial aid programs authorized under Code chapter  
22 261.

23 The bill amends Code section 714.23 to remove the exemption  
24 for students with financial obligations of three or fewer  
25 months' duration from standards regarding tuition refund  
26 policies. The bill provides for the inclusion of educational  
27 programs in which student progress is measured only in clock  
28 hours under standards regarding tuition refund policies. The  
29 bill also provides that certain tuition refunds must be paid  
30 directly to students. A violation of Code section 714.23 is a  
31 simple misdemeanor, which is punishable by confinement for not  
32 more than 30 days or a fine of at least \$65 but not more than  
33 \$625 or by both.

34 The bill provides that the commission may collect  
35 nonrefundable fees for the filing of evidence of financial

1 responsibility and claims for exemption relating to the  
2 commission's oversight functions under Code chapter 714.  
3 The bill specifies that such fees must be deposited into  
4 the general fund and are appropriated to the commission for  
5 purposes of administering the commission's oversight functions  
6 under Code chapter 714.

7     The bill amends Code section 714.25 to exempt from certain  
8 disclosure requirements proprietary schools, as defined in the  
9 bill, that are eligible for federal student financial aid under  
10 Tit. IV of the Higher Education Act of 1965.

11     The bill provides that the commission and the attorney  
12 general may, individually or jointly, adopt rules pursuant  
13 to Code chapter 17A to carry out the commission's oversight  
14 functions under Code chapter 714.

15     Finally, the bill makes changes to terminology,  
16 demonstration of compliance, and exemptions relating to the  
17 commission's oversight functions under Code chapter 714.